



California Regional Water Quality Control Board

San Diego Region



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

March 10, 2005

CERTIFIED-RETURN RECEIPT REQUESTED
7004 1160 0007 0640 2644

Clay Phillips, City Manager
City of Escondido
201 North Broadway
Escondido, California 92029

In reply refer to:
10-5007.02:melbf

Dear Mr. Phillips:

Complaint No. R9-2005-0097 For Administrative Civil Liability Against the City of Escondido for Violation of Order No. 2001-01

Enclosed find Administrative Civil Liability Complaint No. R9-2005-0097 against the City of Escondido (City) for violations of the San Diego County Municipal Storm Water Permit, Order No. 2001-01 related to JRMC Real Estate, Inc.'s (JRMC's) Escondido Research and Technology Center (ERTC) construction site located near Vineyard Avenue in Escondido, California. The Complaint in the amount of \$129,000 is for violations of Order No. 2001-01, *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the incorporated Cities of San Diego County, and the San Diego Unified Port District*.

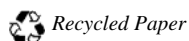
Be aware that the City may waive its right to a hearing before the California Regional Water Quality Control Board, San Diego Region (Regional Board). Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the recommended assessment of civil liability in the amount of \$129,000 as set forth in the Complaint. Please note that any waiver will not be effective until reasonable opportunity for public participation has been provided pursuant to federal National Pollutant Discharge Elimination System (NPDES) regulations (40 Code of Federal Regulations [CFR] Parts 122, 123, and 124). The Regional Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of thirty (30) days. In order for the Regional Board to accept the waiver of your right to a public hearing, the City must submit the following by 5:00 p.m., Friday **April 8, 2005**:

1. The enclosed waiver form signed by an authorized agent of the City; and
2. A cashier's check for the full amount of civil liability of \$129,000.

Waivers submitted after April 8, 2005 will not be accepted.

If the City does not elect to waive its right to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on June 8, 2005, at the Regional Board. An agenda,

California Environmental Protection Agency



**Mr. Clay Phillips
City of Escondido
ACL Complaint No. R9-2005-0097**

Page 2 of 3

March 10, 2005

If the City does not elect to waive its right to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on June 8, 2005, at the Regional Board. An agenda, with procedures for the hearing will be mailed to you not less than ten days before the hearing date. The meeting is scheduled to begin at 9:00 a.m.

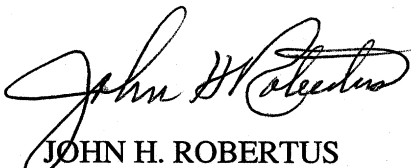
If the City intends to present any written exculpatory evidence, or written evidence in mitigation at the hearing in response to Complaint No. R9-2005-0097, it must be received by 5:00 PM, Wednesday April 27, 2005 in order to be considered by the Regional Board at the public hearing. Please submit twenty (20) copies of any response, including evidentiary exhibits. Copies of material submitted will be forwarded to the Regional Board Members prior to the public hearing.

The Regional Board has established a written public comment period to solicit input on the Complaint. This includes publishing a notice in a local newspaper. The written public comment period for the Complaint ends at 5:00 PM Wednesday April 27, 2005. Oral comments can be made during the June 8, 2005 public hearing.

Please contact Frank Melbourn of my staff at (858) 467-2973 or FMelbourn@waterboards.ca.gov if you have any questions concerning this matter.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Sincerely,



JOHN H. ROBERTUS
Executive Officer

JHR:mpm:mja:ftm

Enclosures: 1. ACL Complaint No. R9-2005-0097
2. Waiver of Hearing Form

California Environmental Protection Agency

Copy with
Enclosures
:

1. Sam Abed, City of Escondido, sabed@ci.escondido.ca.us
2. James Berbrich, busyberbs@cox.net
3. Ellen Blake, US EPA Region IX, blake.ellen@epa.gov
4. Leo Brendis, lbrendis@hotmail.com
5. Connie Bruins, CA Energy Commission, cbruins@energy.state.ca.us
6. Cheryl Filar, City of Escondido, cfilar@ci.escondido.ca.us
7. Ed Gallo, City of Escondido, egallo@ci.escondido.ca.us
8. Thomas Jennings, Palomar Energy, tjennings@sempra-res.com
9. Mr. and Mrs. Klavzars, klavzars@ifriendly.com
10. Phyllis Laderman, pjladerman@cox.net
11. Richard Latteri, CA Energy Commission, rlatterri@energy.state.ca.us
12. Gentry McCormick, cjsgrm@cox.net
13. Ron Newman, City of Escondido, rnewman@ci.escondido.ca.us
14. Warden Liz Pedro, CA Dept. of Fish & Game, lpedro@dfg.ca.gov
15. Lori Holt Pfeiler, City of Escondido, lpfeiler@ci.escondido.ca.us
16. Mark Rodriguez, marknrodriguez@cox.net
17. Kevin Slatnick, KS@raveontech.com
18. Patrick Thomas, City of Escondido, pthomas@ci.escondido.ca.us
19. Marie Waldron, City of Escondido, mwaldron@ci.escondido.ca.us

S:\Compliance Assurance\Enforcement Orders\ACL\City of Escondido\Construction Storm Water\R9-2005-0097 Complaint Transmittal.DOC

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

**CITY OF ESCONDIDO
NONCOMPLIANCE WITH ORDER NO. 2001-01, *WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF URBAN RUNOFF FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4S) DRAINING THE WATERSHEDS OF THE COUNTY OF SAN DIEGO, THE INCORPORATED CITIES OF SAN DIEGO COUNTY, AND THE SAN DIEGO UNIFIED PORT DISTRICT.***

**COMPLAINT NO. R9-2005-0097
FOR
ADMINISTRATIVE CIVIL LIABILITY**

March 10, 2005

THE CITY OF ESCONDIDO IS HEREBY GIVEN NOTICE THAT:

1. The City of Escondido (City) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability under sections 13385 of the California Water Code.

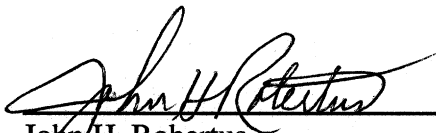
ALLEGATIONS

2. **Failure to Reduce the Discharge of Pollutants to the MEP**
The City failed to implement, or require JRMC Real Estate, Inc. (JRMC) to implement Best Management Practices (BMPs) to ensure that the pollutant discharges from JRMC's construction activity into the City's Municipal Separate Storm Sewer System (MS4) was reduced to the Maximum Extent Practicable (MEP) performance standard in violation of Order No. 2001-01 section E on at least 430 days (January 5, 2004 to present).

PROPOSED CIVIL LIABILITY

3. Based on consideration of the factors listed in section 13385 of the California Water Code, civil liability should be imposed on the City in the amount of \$129,000 for the violations described in paragraph No. 2;

Dated this 10th day of March 2005



John H. Robertus
Executive Officer



California Regional Water Quality Control Board San Diego Region



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WAIVER OF RIGHT TO A PUBLIC HEARING

Mr. Clay Phillips, City Manager
City of Escondido
201 North Broadway
Escondido, California 92029

Complaint No. R9-2005-0097
For
Administrative Civil Liability
\$129,000

NPDES No. CAS0108758
San Diego County Municipal Storm Water Permit

By signing below, I agree to waive the City of Escondido's right to a public hearing before the California Regional Water Quality Control Board, San Diego Region with regards to the violations alleged in the above referenced Complaint and to remit payment for the civil liability imposed. I understand that I am authorized to give up the City of Escondido's right to be heard, and to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, civil liability proposed. I have enclosed a cashier's check or money order made payable to the State Water Resources Control Board for the civil liability imposed.

Signature

Title

Date

Print your name

Send this signed form to:

John H. Robertus, Executive Officer
C/O Compliance Assurance Unit
California Regional Water Quality Control Board – San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

California Environmental Protection Agency

